

cores to the septum (Abstract). With reference to varying portions of the disclosure of Syed, the Office Action alleges that Syed teaches many of the features recited in the pending claims. The Office Action, however, concedes that Syed does not disclose forming the septum by applying separate parts to the honeycomb on the mold such that they abut each other so as to approximate the final shape. Rather, the Office Action relies on Williamson as allegedly disclosing such a feature. The analysis of the Office Action fails for at least the following reasons.

Claim 1 recites, among other features, the septum is obtained during the assembly of the panel by positioning a plurality of component parts edge to edge against one of the honeycombs and by covering the component parts positioned in this way by the other honeycomb, the component parts being cut from a flexible strip, the component parts being defined so as to enable, with suitable flexing, an approximation of the final shape, by developable curved surfaces substantially joined together, to be obtained, the maximum error being noted as E, the transverse pressure then bringing about the deformation of the component parts so as to bring them to the final shape, E having a sufficiently low value to prevent the component parts from creasing and tearing during this deformation, wherein the maximum error E is a maximal distance between the developable surface and the final shape of the septum. The asserted combinations of applied references cannot reasonably be considered to have suggested such a combination of detailed structural features as is positively recited in the pending claims.

As discussed in at least paragraph [0052] of Applicant's disclosure, the number of component parts 50a must be limited in order to limit the total length of the adjacent edges 50c of the component parts 50a. The presence of adjacent edges 50c induces spaces which reduce the acoustic properties of the cells located above those spaces, and therefore the acoustic panel is less efficient in absorbing noise. The number of component parts, therefore,

is determined by the value given to the maximum error E as positively recited in the pending claims. E must be high enough to limit the number of component parts 50a. E, however, must remain limited so that the component parts 50a do not form creases and do not tear under the effect of the pressure exerted when the septum is glued between two honeycombs (see, e.g., paragraph [0054]). There is nothing in the combination of Syed and Williamson to suggest such a specific combination of structural features.

Williamson teaches a method for making a curved surface by joining together different component parts, but makes no reference to specific limitations recited in the pending claims. The Office Action alleges that "[a]s to the error E one in the art would appreciate that since creases would not be desirable, one in the art would appreciate that a minimum distance between the septum and the honeycomb would be desired and would use the appropriate number of septum sections to ensure this." Even if this were true, which Applicant does not concede, this does not address the full scope of the structural features positively recited in the pending claims with respect to the limiting values of the recited variable E. Further, because there is nothing in Syed or Williamson that would reasonably lead to a conclusion that one of ordinary skill in the art would somehow be directed at finding an optimal compromise of E to develop an acoustic panel which is both (1) sufficiently structured to absorb noise and (2) configured to maintain mechanical resilience during fabrication, it is not as simple a matter as the Office Action alleges to assert, in a simple conclusory manner without any objective evidence of record, that any optimization of either of the objectives, much less both, would have been predictable with any reasonable expectation of success. In fact, it appears as though the only manner by which such a conclusion can be made is through the improper application of hindsight reasoning based on the roadmap provided by Applicant's disclosure.

The above-indicated shortfalls are not overcome by any assertion of what is alleged to be AAPA.

Further, with respect to the combination of Syed and Williamson, the analysis of the Office Action seems to forego application of the proper standards for an obviousness analysis. The Office Action summarily concludes that it would have been obvious to combine these references to make the solid septum of Syed from multiple parts, which are applied to the surface of the honeycomb so that the septum would accurately fix the complex curvature of the article. This conclusion requires first that, without more, one of ordinary skill in the art would have been willing to forego some amount of noise-absorbing capacity in the acoustic panel of Syed. This, on its face, is an unreasonable conclusion. Further, the analysis of the Office Action regarding the combination of Syed with Williamson fails for at least one or more of the following additional reasons.

MPEP §2142 instructs that the proper standard by which to determine obviousness requires (1) that the Examiner step backward in time into the shoes of the hypothetical "person of ordinary skill in the art," (2) that "[i]n view of all of the factual information, the Examiner must then make a determination whether the claimed invention, as a whole, would have been obvious at the time to that person," and (3) that any knowledge gained from Applicant's disclosure must be put aside at reaching this determination. This clearly has not been done here. There is nothing in Syed or Williamson that can reasonably be considered to support a conclusion that one of ordinary skill in the art would have predictably combined these references with any reasonable expectation of success in attempting to render obvious the combinations of all of the features positively recited in the pending claims. In this regard, the Office Action makes numerous conclusory statements regarding (1) the combinability of the references, and (2) what one of ordinary skill in the art may have optimized, without any objective evidence of record being provided to support these raw conclusions. Even post-

*KSR*, the analysis supporting obviousness rejection must be explicit. The Supreme Court in *KSR* approved the conclusions set forth in the decision of the Federal Circuit in *In re Kahn* (citations omitted) that "rejections on obviousness grounds cannot be sustained with mere conclusory statements [as is the case here]; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." This standard is clearly not met here with the mere conclusory statements that one of ordinary skill in the art may have combined these references in the manner suggested, and otherwise, once those references were combined, separately have optimized some measure predictably with a reasonable expectation of success in addressing the problem addressed with the subject matter of the pending claims. This analysis is far too attenuated to support an obviousness rejection.

It should also be noted that MPEP §2143 is explicit in setting forth rationales to guide the obviousness analysis in supporting a rejection under 35 U.S.C. §103 in the aftermath of *KSR*. The mandate of this MPEP section is that "[t]he key to supporting any rejection under 35 U.S.C. §103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." Again here there remains a requirement for objective evidence of record to support that articulation. Not only is this standard ignored, but there is not even an attempt by the Office Action to frame the asserted obviousness rejection over these combinations of applied references under any of the exemplary rationale set forth in the Patent Office's guidance to its Examiners.

For at least the foregoing reasons, Syed and Williamson are not combinable in the manner suggested by the Office Action, and further are not combinable with anything that is alleged to be Applicant's admitted prior art. As such, the asserted rejections of the subject matter of at least independent claim 1, and the claims depending therefrom, necessarily fail. In other words, there is no permissible combination of Syed, Williamson and AAPA that would reasonably have suggested the combination of all of the features positively recited in

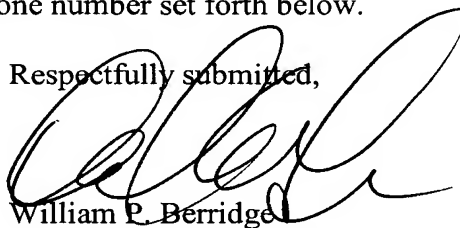
independent claim 1. Further, claims 2-10 would also not have been suggested by these combinations of applied references for at least the respective dependence of these claims directly or indirectly on an allowable base claim, as well as for the separately patentable subject that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-10 under 35 U.S.C. §103(a) over the varying combinations of applied references are respectfully requested.

In view of the foregoing, Applicant respectfully submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-10 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number set forth below.

Respectfully submitted,



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